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Attorney Docket No. 9372-2

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Vosburgh et al.

Confirmation No.: 2761

Serial No.: 10/715,123

Group Art Unit: 2643

Filed: November 17, 2003

For: SOUND PRODUCTION SYSTEMS AND METHODS FOR PROVIDING SOUND  
INSIDE A HEADGEAR UNIT

November 2, 2004

Office of Patent Legal Administration  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION TO ACCORD THE PROPER FILING DATE**

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of November 17, 2003 rather than November 18, 2003 for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of November 17, 2003 being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 3;
2. A true and accurate copy of the Express Mail Receipt marked by the United States Postal Service ("USPS") as a "date-in" or deposit date with the USPS on November 17, 2003; and
3. A true and accurate copy of our return post card sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of November 18, 2003 instead of the Express Mail date of November 17, 2003.

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of November 17, 2003 as the filing date pursuant to 37 CFR § 1.10.

In re: Vosburgh et al.  
Serial No.: 10/715,123  
Page 2

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

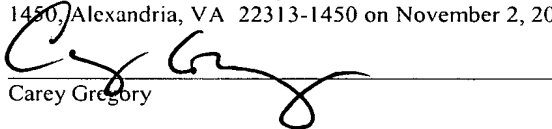


Laura M. Kelley  
Attorney For Applicant  
Registration No. 48,441

**USPTO Customer No. 20792**  
Myers Bigel Sibley & Sajovec  
Post Office Box 37428  
Raleigh, North Carolina 27627  
Telephone: 919/854-1400  
Facsimile: 919/854-1401

**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 2, 2004.

  
Carey Gregory



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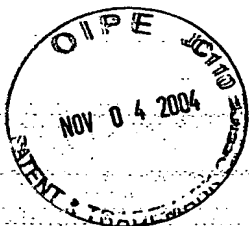
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M.S. Patent Application

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

LMK/gy

Date: 11-17-03

Doc. No. 9372-2

Serial No. 773A

Inventor: Vesburyh

11-28-03

Sir: Kindly acknowledge receipt of the accompanying items listed below  
by placing your receiving stamp hereon and return mailing:

Application Transmittal and:

Specification pages 24

No. of Claims 36

Declaration & POA

Assignment and Fee

Small Entity Statement

Formal Drawings/ 8 sheets

Associate Power of Attorney

Exp. Mail

1st Class Mail

Check \$

IDS & PTO-1449 & refs.

Amendment & Amend. Transmittal

Preliminary Amendment

Issue Fee

Brief

Appeal

Submittal of Priority Doc.

22388 U.S. PTO

10/715123



111803

Respectfully submitted,  
MYERS BIGEL SIBLEY & SAJOVEC, P.A.  
Attorneys for Applicant

Application filed under 37 CFR 1.41(c)



**PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY DOCKET NO.: 9372-2

DATE: November 17, 2003

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER  
AND FEE TRANSMITTAL FORM (37 CFR § 1.53(b))**

Mail Stop PATENT APPLICATION  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing under 37 CFR § 1.53(b) is:

- ☒ a patent application  
☐ a Continuation ☐ a Divisional ☐ a Continuation-in-Part (CIP) Application of prior application no.: \_\_\_\_\_; filed \_\_\_\_\_, the disclosure of which is incorporated herein by reference in its entirety.  
☒ and claims the benefit of Provisional Application No. 60/427,306; filed November 17, 2003.

Inventor(s) or Application Identifier:

**Frederick R. Vosburgh**  
**Walter C. Hernandez**

Entitled: **SOUND PRODUCTION SYSTEMS AND METHODS FOR PROVIDING SOUND INSIDE A HEADGEAR UNIT**

Myers Bigel Sibley & Sajovec, P.A.  
P. O. Box 37428  
Raleigh, North Carolina 27627  
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Facsimile: (919) 854-1401  
Customer No. 20792

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form (*A duplicate is enclosed for fee processing*)
2. ☒ 24 pages of Specification (including 36 claims)
3. ☒ 8 sheets of Informal Drawings (35 USC 113)
4. ☐ Oath or Declaration
  - a. ☐ newly executed (*original or copy*)
  - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below])
  - c. ☐ DELETION OF INVENTOR(S) (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated

by reference therein.

7. ☐ Microfiche Computer Program (*Appendix*)
8. ☐ Assignment papers (*cover sheet(s) and document(s)*)
9. ☒ Applicant claims small entity status. See 37 CFR § 1.27.
10. ☐ Information Disclosure Statement, PTO-1449, and \_\_\_\_\_ references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of \_\_\_\_\_ Application No. \_\_\_\_\_ ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
  - a. ☐ computer readable copy
  - b. ☐ paper copy
  - c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Deletion of Inventors(s) (Signed statement attached deleting inventor(s) name in the prior application. See 37 CFR 1.63(d)(2) and 1.33(b).
18. ☐ Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form.
19. ☒ Other: Application filed under 37 CFR 1.41(c)

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate      Fee	Large Entity Rate      Fee
BASIC FEE			\$385.00	\$ 770.00
TOTAL CLAIMS	36 - 20 =	16	x 09 = \$144.00	x 18 = \$
INDEP CLAIMS	5 - 3 =	2	x 43 = \$ 86.00	x 86 = \$
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 145 = \$	+ 290 = \$
<i>If the difference in Col. 1 is less than zero, Enter "0" in Col. 2</i>			Total \$673.00	Total \$

- ☐ A check in the amount of \$ \_\_\_\_\_ to cover the filing fee is enclosed.
- ☐ A check in the amount of \$ \_\_\_\_\_ is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).
- ☐ Please charge my Deposit Account No. 50-0220 in the amount of \$ \_\_\_\_\_.
- ☐ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
  - a. ☐ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
  - b. ☐ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,



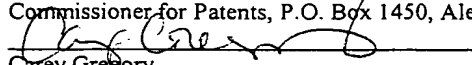
Laura M. Kelley  
Registration No. 48,441

**CERTIFICATE OF EXPRESS MAILING**

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Date of Deposit: November 17, 2003

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Carey Gregory

